

JUL 27 2006

ROY-012

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Kenneth Austin	)	Group Art Unit: 2611
		)	
Serial No.:	09/762,740	)	Examiner: Saltarelli, Dominic D.
		)	
Filed:	June 15, 2001	)	Attorney Docket No. ROY-012
		)	
For:	Interactive Television Control/ Operating System	)	Confirmation No. 7487
		)	

**RESPONSE TO REQUIREMENT  
FOR RESTRICTION OF INVENTION**

MAIL STOP AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is responsive to the Office Action dated September 27, 2005. In that Office Action the Examiner required restriction to one of the following:

Group I, claims 70-76, drawn to a system for enlarging an area of a displayed moving television image, classified in Class 348 subclass 562.

Group II, claims 77-94, drawn to a system for capturing and storing displayed video images, classified in Class 386 subclass 46.

Group III, claims 95-125, drawn to a system for selecting television programs using stored viewing preferences, classified in Class 725 subclass 46.

Group IV, claims 126-139, drawn to a system for storing digitized audio samples while using a television, classified in Class 386 subclass 96.

Group V, claims 140-165, drawn to a system for the display of targeted commercials, classified in Class 725 subclass 35.

Group VI, claims 166-167, drawn to a system for recording a television broadcast utilizing a receiver with two tuners, classified in Class 725 subclass 153.

Serial No. 09/762,740  
Filed: June 15, 2001

2

**Restriction of Invention Requirement**

Applicant provisionally elects Group V, claims 140-165, drawn to a system for the display of targeted commercials, classified in Class 725 subclass 35, for prosecution but respectfully traverses the restriction of invention requirement and requests reconsideration. Applicant further reserves the right to file divisional and/or continuation applications on the subject matter of the non-elected embodiments if the restriction requirement is not withdrawn.

This Restriction Requirement should be reconsidered and withdrawn because it is not in compliance with M.P.E.P Section 1850, Part II (DETERMINATION OF "UNITY OF INVENTION").

Although lack of unity of invention should certainly be raised in clear cases, it should neither be raised nor maintained on the basis of a narrow, literal or academic approach. There should be a broad, practical consideration of the degree of interdependence of the alternatives presented, in relation to the state of the art as revealed by the international search or, in accordance with PCT Article 33(6), by any additional document considered to be relevant. If the common matter of the independent claims is well known and the remaining subject matter of each claim differs from that of the others without there being any unifying novel inventive concept common to all, then clearly there is lack of unity of invention. If, on the other hand, there is a single general inventive concept that appears novel and involves an inventive step, then there is unity of invention and an objection of lack of unity does not arise. For determining the action to be taken by the examiner between these two extremes, rigid rules cannot be given and each case should be considered on its merits, the benefit of any doubt being given to the applicant.

Applicant submits that the inventions of Groups I-V are so linked so as to form a single general inventive concept under PCT Rule 13.1. All of the claims of Groups I-V (claims 70-139 as well as claims 140-165) share the common inventive concept of performing operations based on video images and related data.

Accordingly, the restriction requirement, at least with regard to Groups I-V, is unnecessary, since those claims do relate to a single inventive concept, and a single search will suffice to determine the novelty and non-obviousness of the claimed subject matter. Since, according to the MPEP, each case should be considered on its merits, the benefit of any doubt being given to the Applicant, it is respectfully submitted that at least the claims of Groups I -V should be examined together.

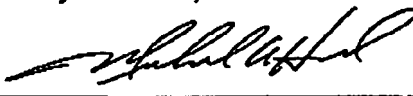
Applicant thus respectfully requests that the Restriction Requirement among Groups I-VI be reconsidered and withdrawn and that at least the embodiments in Groups I-V be examined together.

Since Applicant has provisionally elected an invention with traverse and has fully and completely responded to the foregoing Office Action in accordance with the rules, the present application is now in condition for an early action at least on the merits of the elected Group V (claims 140-165), and respectfully with regard to Groups I-V (Claims 70-165).

Respectfully submitted,

Date: March 27, 2006

By



Michael A. Hierl (Reg. No. 29,807)

OLSON & HIERL, LTD.  
20 North Wacker Dr., 36<sup>th</sup> Floor  
Chicago, IL 60606  
(312) 580-1180  
Attorneys for Applicant

CERTIFICATE OF MAILING

I certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 27, 2006.



Michael A. Hierl

THE UNITED STATES PATENT OFFICE IS REQUESTED TO IMPRESS ITS STAMP ON THIS CARD AND PLACE SAME IN THE OUT-GOING MAIL TO SHOW THE FOLLOWING PAPERS HAVE BEEN RECEIVED.

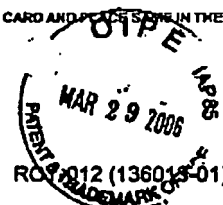
**RESPONSE TO REQUIREMENT  
FOR RESTRICTION OF INVENTION**

**Applicant:** Kenneth Austin

**Serial No.:** 09/762,740 **Filed:** June 15, 2001

**Title:** INTERACTIVE TELEVISION CONTROL/OPERATING SYSTEM

**Enclosures:** Response to Requirement for Restriction of Invention; Petition Under 37 CFR §1.136(a) and §1.17; Check No. 029345 in the amount of \$1,080.00 for extension request fee; and a self-addressed stamped postcard mailed in an envelope addressed to: MAIL STOP AMENDMENT; Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 27, 2006



**RECEIVED**

APR 05 2006

**OLSON & HIERL, LTD.**

OLSON & HIERL, LTD.  
20 N. WACKER DRIVE  
36TH FLOOR  
CHICAGO, IL 60606-2806



To  
Docket

CO28

